

**THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

Before Commissioners: Pat Apple, Chairman  
Shari Feist Albrecht  
Jay Scott Emler

In the Matter of the Investigation of )  
**Carry Yours A Division of CFSI, Inc.** )  
**of Marietta, Georgia,** Pursuant to the )  
Kansas Highway Patrol Issuance of a )  
Notice of Violation for Violations of the ) Docket No. 12-GIMM-423-KHP  
Federal Motor Carrier Safety )  
Regulations, as adopted by K.S.A. 66- )  
1,129, and implemented by K.A.R. 82-4- )  
3. )

**ORDER SUSPENDING MOTOR CARRIER OPERATIONS IN KANSAS**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

**I. JURISDICTION AND BACKGROUND**

1. Pursuant to K.S.A. 2016 Supp. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 2016 Supp. 66-1,108, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority, and jurisdiction.

2. Pursuant to K.S.A. 2016 Supp. 66-1,129a, 66-1,130, and 66-1,142b, the Commission may suspend operations, revoke, or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of

Kansas law in regard to the regulation of such motor carriers and persons, or who fails to obey any order, decision, or regulation of the Commission.

3. Pursuant to K.S.A. 2016 Supp. 66-1,129(a)(7), the Commission has adopted motor carrier transportation regulations (K.A.R. 82-4-1 *et seq.*) consistent with the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous waste.

## **II. FINDINGS OF FACTS**

4. Carry Yours A Division of CFSI, Inc. of Marietta, Georgia (Respondent) is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108, that operates commercial motor vehicle(s) in commerce.

5. Respondent operates under USDOT Number 2192175.

6. On November 4, 2011, the Commission issued Respondent a Notice and Invoice (Invoice No. H000526561) assessing Respondent a civil fine in the amount of \$400 for violation(s) of the Federal Motor Carrier Safety Regulations, as adopted by K.S.A. 66-1,129, and implemented by K.A.R. 82-4-3, discovered during a motor carrier stop on September 13, 2011, by a Kansas Highway Patrolman. The Notice gave Respondent 30 days to pay the fine, or request an administrative hearing.

7. On December 9, 2011, the Respondent filed a request for hearing, contesting the violation(s) set out in the Notice and Invoice.

8. On March 8, 2012, an evidentiary hearing was conducted. On July 20, 2012, the Commission issued a Default Order due to no appearance at the hearing on behalf of Carry Yours A Division of CFSI, Inc, and upholding the \$400 civil penalty.

9. Commission records indicate Respondent has not complied with requirements of the Order dated July 20, 2012, in that Respondent has not paid the civil fine assessed in Invoice No. H000526561.

10. On March 3, 2017, Commission Staff filed a Motion to Suspend Motor Carrier Operations in Kansas due to the carrier's failure to pay.

### **III. CONCLUSIONS OF LAW**

9. The Commission finds it has jurisdiction over Respondent as the Respondent is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

10. A Notice and Invoice (Invoice No. H000526561) was issued to Carry Yours A Division of CFSI, Inc. on November 4, 2011, in the amount of \$400 for violation(s) of the Federal Motor Carrier Safety Regulations, as adopted by K.S.A. 66-1,129, and implemented by K.A.R. 82-4-3, discovered during a motor vehicle stop on September 13, 2011, by a Kansas Highway Patrolman. The Notice gave Respondent 30 days to pay the civil fine, or request an administrative hearing.

11. On December 9, 2011, Respondent filed a Request for Hearing, contesting the violation(s) set out in the Notice and Invoice.

12. On March 8, 2012, an evidentiary hearing was conducted. On July 20, 2012, the Commission issued a Default Order due to no appearance at the hearing on behalf of Carry Yours A Division of CFSI, Inc, and upholding the \$400 civil penalty.

13. Current records of the Commission indicate that the Respondent has not complied with the Order dated July 20, 2012, and has not paid the civil fine.

14. The Commission finds Respondent's failure to comply with the Notice and Invoice and the Order dated July 20, 2012, is intentional and therefore this

Commission orders the Respondent to suspend all motor carrier operations in Kansas other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 2016 Supp. 66-1,129, until such time as the carrier takes the necessary steps to become compliant.

**THE COMMISSION THEREFORE ORDERS THAT:**

A. Carry Yours A Division of CFSI, Inc. of Marietta, Georgia is to be immediately suspended from all commercial motor carrier operations in Kansas other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 2016 Supp. 66-1,129, until such time as Respondent pays the civil fine of \$400 and brings its motor carrier operation into compliance with motor carrier safety statutes, rules and regulations. This Suspension of Motor Carrier Operations Order in Kansas may also attach and apply to the operations of successor entities, including any motor carrier entity or entities established or used to avoid the consequences of any Order to cease operations or suspending operating authority.

B. **Pursuant to K.S.A. 2016 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Commission's Secretary, at 1500 S.W. Arrowhead Road Topeka, Kansas 66604 within fifteen (15) days from the date of service of this Order.** Service of this order is by certified mail, return receipt requested, and service is complete when Respondent signs the Domestic Return Receipt. Pursuant to K.S.A. 66-1,129a, hearings will be held within ten (10) days upon written request. Failure to timely request a hearing will result in a waiver of

Respondent's right to a hearing, and this Order will become a Final Order against Respondent, suspending Respondent's motor carrier operations in Kansas.

D. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties of \$500 or less, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2016 Supp. 66-1,142b(e) and amendments thereto.

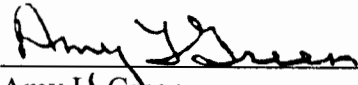
E. Failure to comply with the provisions of this Order may result in further sanctions to include, but not limited to, the assessment of civil penalties and/or the impoundment of commercial motor vehicles found operating in violation of this Order and any other remedies available to the Commission by law, without further notice.

F. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders, as necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Apple, Chair; Albrecht, Commissioner; Emler, Commissioner

Dated: MAR 09 2017

  
\_\_\_\_\_  
Amy L. Green  
Secretary to the Commission

AAL

Order Mailed Date

MAR 10 2017

**CERTIFICATE OF SERVICE**

12-GIMM-423-KHP

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on MAR 09 2017.

RICHARD CARRUTHERS, PRESIDENT  
CARRY YOURS A DIVISION OF CFSI, INC.  
3595 CANTON RD BLDG A9 RM 252  
MARIETTA, GA 30066

JUDY JENKINS, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3167  
j.jenkins@kcc.ks.gov

/S/ DeeAnn Shupe  
DeeAnn Shupe

Order Mailed Date

MAR 10 2017